

REMARKS

I. Introduction

Claims 9-16 are currently pending. Claims 9-16 are rejected.

II. Rejection of Claims 9, 10, 13, and 15-16 under 35 U.S.C. 102(e)

Claims 9, 10, 13, 15, and 16 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,724,815 B1 (“Jepsen”). Applicant respectfully submits that the rejections should be withdrawn, for at least the following reasons.

To anticipate a claim under §102(e), each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 105 3 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the anticipation rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claim 9 recites, in relevant parts, a data transmission method including: “transmitting a data signal between a transmitter and a receiver as a data stream of data bursts in at least a first transmission mode and a second transmission mode; in the first transmission mode, transmitting a reference signal by the transmitter in each data burst, the reference signal being evaluated in the receiver; and in the second transmission mode, **avoiding transmitting the reference signal** by the transmitter in each data burst **and instead transmitting additional redundancy data** of the data signal in each data burst.”

In support of the rejection, the Examiner once again contends that the last feature of claim 9, i.e., “avoiding transmitting the reference signal by the transmitter in each data burst and instead transmitting additional redundancy data of the data signal in each data burst,” is disclosed by Jepsen at column 8, lines 10-13, and Fig. 4 (“... the enhanced units being characterized by being able to transmit data instead of midamble and being able to receive GSM signals with midamble replaced by the user data.”). In this regard, the Examiner further contends that since “[t]he specification does not specifically define what type of data should be considered as redundancy data,” the “examiner interprets redundancy data, as recited in claim 9, as an extra data or a redundant data or user data or more than what [is] usually transmitted normally in a frame.”

Initially, with respect to the Examiner’s asserted interpretation of claimed “additional redundancy data,” Applicant submits that the asserted interpretation is clearly contradicted by the Applicant’s specification and the general understanding of the phrase in the art. Applicant notes that the “broadest reasonable interpretation” of a claim is not made in vacuum; instead, the long-standing rule of claim interpretation is that the pending claims should be given the broadest reasonable interpretation **that is consistent with the specification and the interpretation that those skilled in the art would reach**. (See M.P.E.P. 2111, citing In re Hyatt, 211 F.3d 1367 (Fed. Cir. 2000), and In re Cortright, 165 F.3d 1353 (Fed. Cir. 1999)). Applicant’s Specification clearly defines “redundancy signal data” as “additional data redundancy in the form of **repeated data symbols**, as illustrated in Fig. 1c.” (Substitute Specification, p. 5, l. 1-3; see also 6/27/06 Amendment). Furthermore, the meaning of “additional redundancy data” is well-understood in the art, e.g., Wikipedia defines “redundancy in information theory” as “the number of bits used to transmit a message minus the number of bits of actual information in the message.” (See <http://en.wikipedia.org/wiki/Redundancy>). When viewed in light of the Applicant’s disclosure and the general understanding in the art, the broadest reasonable interpretation of the claimed feature of “additional redundancy data” cannot encompass the Examiner’s asserted interpretation.

Jepsen clearly does not provide any suggestion regarding redundant (repeated) data; instead, Jepsen merely transmits additional data to provide an increased data rate (e.g., col. 1,

lines 64-67; col. 3, lines 50-51), i.e., Jepsen achieves increased data rate by replacing the midamble by user data (col. 8, l. 11-12). The additional data disclosed in Jepsen is completely different from, and completely unrelated to, the “additional redundancy data” recited in the present claims, particularly since the additional redundancy data inserted by the present invention refers to repeated data and cannot be used to increase the data rate. Based on the teachings of Jepsen, one of ordinary skill in the art would not be able to arrive at the claimed subject matter of claim 9, because the objective of Jepsen (to increase the data rate by inserting additional, not previously sent data) is exactly opposite of the present invention, i.e., to insert redundant data repetition in order to improve error correction.

Therefore, Jepsen clearly fails to teach “avoiding transmitting the reference signal by the transmitter in each data burst and instead transmitting additional redundancy data of the data signal in each data burst,” as recited in claim 9. For at least the foregoing reasons, independent claim 9, as well as its dependent claims 10, 13, 15, and 16, are not anticipated by Jepsen.

III. Rejection of claims 11, 12 and 14 under 35 U.S.C. 103(a)

Claims 11 and 12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jepsen in view of U.S. Patent No. 5,113,413 (“Brown”). Claim 14 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jepsen in view of U.S. Patent No. 6,760,589 (“Hobbis”). Applicant respectfully submits that these rejections should be withdrawn, for at least the following reasons.

Claims 11, 12, and 14 ultimately depend from, and incorporate the features of, independent claim 9. The Brown and Hobbis references fail to cure the deficiencies of the primary Jepsen reference as applied against parent claim 9, since neither Brown nor Hobbis teaches or suggests “avoiding transmitting the reference signal by the transmitter in each data burst and instead transmitting additional redundancy data of the data signal in each data burst.” For at least this reason, it is submitted that the combination of Jepsen with Brown and Hobbis fails to render obvious dependent claims 11, 12, and 14.

In view of the above, withdrawal of the obviousness rejections of claims 11, 12, and 14 is therefore respectfully requested.

IV. Conclusion

It is therefore respectfully submitted that all of the presently pending claims 9-16 are in allowable condition. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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